

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF ARKANSAS

IN THE MATTER OF:

**CHRISTIANWAY FUNERAL HOME,
RESPONDENT**

AID ORDER NO. 2021- 60

CEASE AND DESIST ORDER

Now on this day the matter of Christianway Funeral Home (“Respondent”) is taken under consideration by Alan McClain, Insurance Commissioner for the State of Arkansas (“Commissioner”), with the Arkansas Insurance Department (“Department”) appearing through Amanda Gibson, Associate Counsel. From the facts, matters and other items before him, the Commissioner finds and concludes as follows:

FINDINGS OF FACT

1. In 2020, Respondent was late in filing five out of six required reports and fees.
2. Those reports were:
 - a. 2019 Annual Report and fees (due March 16, 2020, filed June 30, 2020);
 - b. 1st Quarter 2020 Report and fees (due May 15, 2020, filed July 29, 2020);
 - c. Prepaid Permit Renewal and fee (due May 29, 2020, filed August 31, 2020);
 - d. 2nd Quarter 2020 Report and fees (due August 17, 2020, filed August 31, 2020); and
 - e. 3rd Quarter 2020 Report and fees (due November 16, 2020, filed December 31, 2020).
3. In 2021, Respondent has failed to file the following five reports and fees:
 - a. 2020 Annual Report and fees (due March 15, 2021);
 - b. 1st Quarter 2021 Report and fees (due May 17, 2021);
 - c. Prepaid Permit Renewal and fee (due May 28, 2021);

- d. 2nd Quarter 2021 Report and fees (due August 16, 2021); and
 - e. 3rd Quarter 2021 Report and fees (due November 15, 2021).
- 4. Respondent's prepaid funeral benefits permit lapsed upon its failure to renew the permit before May 31, 2021.
 - 5. As of December 31, 2019, the trust fund was deficient approximately \$16,000.
 - 6. The Department has been unable to determine whether the deficiency has been cured because the Respondent has failed to file the 2020 annual report and the subsequent 2021 quarterly reports.

CONCLUSIONS OF LAW

- 1. Ark. Code Ann. § 23-40-123(b)(1) provides, "If the commissioner determines that immediate action is required to protect the public health, safety, or welfare of the holders of the prepaid funeral benefits contracts, the commissioner may issue an order to a licensee to cease and desist prepaid funeral benefits contracts operations."
- 2. Respondent's failure to timely file the 2019 Annual Report and fee and failure to file the 2020 Annual Report and fee constitute a violation of Ark. Code Ann. § 23-40-119(a).
- 3. Respondent's failure to timely file the 2019 quarterly reports and fees, and the failure to file the 2020 quarterly reports and fees constitute a violation of Ark. Code Ann. § 23-40-119(d)(1)(B) and (C).
- 4. Respondent's failure to renew the prepaid funeral benefit permit by May 31, 2021 constitutes a violation of Ark. Code Ann. § 23-40-109, requiring organizations to be issued a permit in order to engage in the business of prepaid funeral benefits.
- 5. If it is determined that there is a deficiency in the trust fund, the deficiency calls into question, the organization's ability to "...be deemed by the commissioner to be competent,

trustworthy, and financially responsible to engage in the sale of prepaid funeral contracts in this state,” as required by Ark. Code Ann. § 23-40-111(a)(2). These qualities are required in order for a renewal permit to be issued.

ORDER

The Commissioner, based on the above findings, determines that grounds exist for emergency action and that the immediate action of a cease and desist order is warranted. The Commissioner hereby orders the following:

1. Pursuant to Ark. Code Ann. § 23-40-123(b)(1), Respondent is ordered to cease and desist from selling any new prepaid funeral benefits contracts in the State of Arkansas, pending the outcome of the Department’s investigation;
2. Pursuant to Ark. Code Ann. § 23-40-123(b)(4)(B)(i), Respondent is ordered to cease and desist from making disbursements or withdrawals from its trust fund. Further, the trustee is ordered to place a hold on the trust account; and
3. Pursuant to Ark. Code Ann. § 23-40-123(b)(4)(A), the Commissioner’s designee is directed to take possession, custody, and control of the property, books, accounts, documents, and other records of the Respondent as to its prepaid funeral benefits contracts operations, such that this matter may be investigated.

Respondent is hereby instructed that this Cease and Desist Order is effective as of the date of the Commissioner’s signature below and, pursuant to Ark. Code Ann. § 23-40-123(b)(5), shall remain in effect until the order is modified or vacated by the Commissioner.

Respondent is further instructed that, pursuant to Ark. Code Ann. § 23-40-123(b)(2)(B), it may request a hearing on this matter within twenty (20) days of the date this Cease and Desist Order is signed by the Commissioner.

IT IS SO ORDERED THIS 1st day of December, 2021.



ALAN MCCLAIN
INSURANCE COMMISSIONER
STATE OF ARKANSAS